

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE SEPTEMBER 11 LITIGATION	: 21 MC 101 (AKH)
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CEDAR & WASHINGTON ASSOCIATES, LLC,	: 08 CIV 9146 (AKH)
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Plaintiff,	:
	:
- against -	:
	:
THE PORT AUTHORITY OF NEW YORK AND NEW	:
JERSEY, SILVERSTEIN PROPERTIES, INC., WORLD	:
TRADE CENTER PROPERTIES LLC, SILVERSTEIN WTC	:
MANAGEMENT CO. LLC, 1 WORLD TRADE CENTER	:
LLC, 2 WORLD TRADE CENTER LLC, 3 WORLD TRADE	:
CENTER LLC, 4 WORLD TRADE CENTER LLC, 7 WORLD	:
TRADE COMPANY, L.P., HMH WTC, INC., HOST HOTELS	:
AND RESORTS, INC., WESTFIELD WTC LLC, WEST-	:
FIELD, CORPORATION, INC., CONSOLIDATED	:
EDISON COMPANY OF NEW YORK, AMR CORPORATION,	:
AMERICAN AIRLINES, INC., UAL CORPORATION, and	:
UNITED AIRLINES, INC.	:
	:
Defendants.	:
	:
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**WESTFIELD DEFENDANTS' SUPPLEMENTAL REPLY  
IN SUPPORT OF ITS MOTION FOR JUDGMENT ON THE PLEADINGS**

Westfield WTC LLC (n/k/a WTC Retail LLC) and Westfield Corporation, Inc. (n/k/a Westfield LLC) (“Westfield” or the “Westfield Defendants”) submit this Supplemental Reply in support of its Motion for Judgment on the Pleadings and the applicability of the “act of war” defense under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”).

Westfield opposes the position set forth in the Opposition filed by Cedar & Washington Associates, LLC and endorses the position set forth in the reply memoranda of law filed and to be filed by the Aviation and Host Defendants in support of the application of the “act of war” defense in this case.

Additionally, Westfield also agrees with the arguments raised by the Port Authority of New York and New Jersey in its reply memorandum that (1) whether or not the September 11 attacks were an “act of war,” those attacks cannot give rise to CERCLA liability here, and (2) if the Court does determine that the “act of war” defense is applicable, it should make clear that this decision is limited to the context of CERCLA.

This Court’s previous dismissal of C&W’s claim is further supported, as a matter of law, by the act of war defense under CERCLA. *See* 42 U.S.C. § 9607(b)(2).<sup>1</sup>

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<sup>1</sup> Westfield’s short reply is intended to minimize the burden on this Court in reviewing multiple (and potentially duplicative) filings. Westfield reserves the right to defend its position more fully at oral argument and, if necessary, before the Second Circuit.

Dated: July 13, 2012

Respectfully submitted,  
LATHAM & WATKINS LLP

BY: /s/ Peter L. Winik  
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LLC and Westfield Corporation, Inc.*